CC 00-175

DOCKET FILE COPY ORIGINAL

MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL

3636 16th Street N.W., Suite BG-54
Washington, D.C. 20010
Phone: (202) 332-0500 Fax: (202) 332-0503

David Earl Honig, Executive Director
Phone: (202) 332-7005 Fax: (202) 332-7511

April 15, 1999

RECEIVED
APR 15 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Hon. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Dear Ms. Salas:

RE: MM [redacted]
(Broadcast and Cable EEO)

Transmitted herewith are ten copies of the University of Michigan's report "The Compelling Need for Diversity in Higher Education" (January, 1999). Please associate this document with the Reply Comments filed today by MMTC et al. ("EEO Supporters").

The report contains the testimony of nine distinguished experts who demonstrate that "students who experienced the most racial and ethnic diversity in classroom settings and in informal interactions with peers showed the greatest engagement in active thinking processes, growth in intellectual engagement and motivation, and growth in intellectual and academic skills." Id. at 1 (Introduction). See Declaration of Patricia Gurin, Professor of Psychology and Interim Dean of the College of Literature, Science, and the Arts at the University of Michigan, id. at 99-234 (documenting how students educated in diverse classrooms learn to think in deeper and more complex ways, and are better prepared to become active participants in a pluralistic, democratic society); Declaration of William Bowen, President of the Mellon Foundation and former President of Princeton University, id. at 235-242, and Declaration of Derek Bok, Professor at the John F. Kennedy School of Government and former President of Harvard University, id. at 253-264 (documenting how minorities admitted to the nation's most selective schools have made significant

No. of Copies rec'd 0+1
List A B C D E

achievements, both in school and afterward, and have contributed in important ways to the education of those around them); Declaration of Kent Syverud, Dean of Vanderbilt Law School, id. at 265-268 (showing how a diverse law school class provides a more vibrant and lively opportunity for learning than could otherwise be achieved); Declaration of Robert Webster, a former judge in Oakland County and former President of the Michigan State Bar, id. at 269-272 (describing diversity's importance to the practice of law).

Respectfully submitted,

David Earl Honig
Counsel for EEO Supporters

Enclosures

cc: Judy Boley
FCC
445 12th St. S.W., Room C-1804
Washington, D.C. 20554

Timothy Fain
OMB Desk Officer
10236 NEOB, 725 17th St. N.W.
Washington, D.C. 20503

/dh

THE COMPELLING NEED FOR DIVERSITY IN HIGHER EDUCATION

Gratz, et al. v. Bollinger, et al.
No. 97-75231 (E.D. Mich.)

Grutter, et al. v. Bollinger, et al.
No. 97-75928 (E.D. Mich.)

TABLE OF CONTENTS

FOREWORD

In the controversial 1996 case of *Hopwood v. State of Texas*, the Fifth Circuit defied the Supreme Court's opinion in *Bakke v. Regents of the University of California*, by ruling that institutions of higher education do not have a 'compelling interest' in enrolling a racially diverse student body. Since then, critics of race-conscious admissions policies have sought out similar judicial challenges in courts across the country. In particular, the Center for Individual Rights ("CIR"), which represented the *Hopwood* plaintiffs, has led the charge to prohibit colleges and universities from seeking to enroll racially diverse student bodies. CIR represents three white applicants who have brought two lawsuits against the University of Michigan challenging as unlawful its policy of considering race as one of many factors in the process for admissions to the College of Literature, Science and the Arts, and the Law School.

The University of Michigan has brought together a team of leading scholars to serve as its experts in these cases to establish the basis for the University's argument that there is a compelling need for diversity in higher education. Their research is evidence that the use of race in higher education admissions is not only constitutional, but of vital importance to education and to our society.

January 1999

INTRODUCTION

The last Supreme Court decision addressing the use of race in admissions to institutions of higher education, *Bakke v. Regents of the University of California*, affirmed that the role of diversity in colleges and universities is both essential and compelling. Since *Bakke*, opponents and proponents have wrestled with ideology and theory, but have never had the benefit of a comprehensive theoretical framework that has been tested by reliable empirical data. The University of Michigan has drawn on several of the nation's leading, and most respected, researchers and scholars, to develop such a framework and verify its legitimacy with empirical proof. The evidence submitted by these leaders in the fields of history, sociology, education, economics, psychology, and law, confirms *Bakke*'s holding and establishes the continuing imperative for diversity -- including racial and ethnic diversity -- in higher education.

According to the national data collected by these experts, our society is as racially separate today as it was before *Brown v. Board of Education*, before the Civil Rights movement, before the Voting Rights Act, and before the *Bakke* decision. For example, a study of residential segregation shows that the rates of residential segregation in the Detroit area, home to about half of Michigan's residents and the second most segregated metropolitan area in the country, were higher in 1990 than they were in 1960. The statistics all reveal that Americans of different races live separately from one another. They reside in different communities, attend separate elementary and secondary schools, and rarely have sustained, meaningful contact with one another.

The Supreme Court has recognized the critical role that education can play in bridging the racial divide. As early as *Brown v. Board of Education*, the Court noted that public education was "perhaps the most important function of state and local governments," and acknowledged "the importance of education to our democratic society." Justice Powell made a similar point in *Bakke*, emphasizing that "the nation's future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this Nation of many peoples." Because race is a defining characteristic of American life, it shapes our values, beliefs and perspectives. It therefore is no surprise that education that takes place in a racially diverse setting is qualitatively different -- as it turns out, better -- from education that is undertaken in the absence of that diversity. In fact, the University's empirical analyses measuring the educational benefits of diversity establish that "patterns of racial segregation and separation historically rooted in our national life can be broken by diversity experiences in higher education." The data prove that diversity experiences during college have significant effects on the extent to which graduates are living racially and ethnically integrated lives.

Furthermore, the data prove what educators have given testimony to anecdotally: students learn better when the learning occurs in a setting where they are confronted with others who are unlike themselves. As Justice Powell recognized in *Bakke*, an institution of higher education has the academic freedom to make its own judgments about what composition of its student body is necessary to the fulfillment of its mission. Most have made the judgment that a racially and ethnically diverse student body is essential to providing a quality education. The University of Michigan's expert analysis verifies the correctness of that judgment. The results of this study establish the educational benefits of diversity: students who experienced the most racial and ethnic diversity in classroom settings and in informal interactions with peers showed the greatest engagement in active thinking processes, growth in intellectual engagement and motivation, and growth in intellectual and academic skills.

The combined evidence of these nationally recognized experts provides proof that the heart of the *Bakke* decision remains a constitutional and democratic imperative for our society. Historian and sociologist **Thomas Sugrue** of the University of Pennsylvania describes the important role that race continues to play in modern American society. Sugrue, whose recent work on the post-war racial history of the city of Detroit was the 1998 winner of the Bancroft Prize, examines the scope, causes, and consequences of persistent racial separation in the United States, with special attention to Michigan and metropolitan Detroit. Historians **Eric Foner** of Columbia University and **Albert Camarillo** of Stanford University, provide additional historical context. Foner, the President-Elect of the American Historical Association, who is described by the *Washington Post* as "one of the most prolific, creative and influential historians of the past 20 years," describes the history of race relations through the lens of the African-American experience. Camarillo, a leading voice on the history of Hispanic groups in the United States, describes the history of Mexican-Americans, Puerto Rican-Americans, and other Hispanic groups, explaining how these groups have been largely marginalized and separated from mainstream American society.

"The combined evidence of these nationally recognized experts provides proof that the heart of the Bakke decision remains a constitutional and democratic imperative for our society."

Patricia Gurin, Professor of Psychology of the University of Michigan, and Interim Dean of the College of Literature, Science, and the Arts, conducted in-depth empirical analyses to measure the educational benefits of diversity. Her studies show that students educated in diverse classrooms learn to think in deeper and more complex ways, and are better prepared to become active participants in a pluralistic, democratic society. Two leading American educators, **William Bowen** (who is president of the Mellon Foundation, and the former President of Princeton University on whom Justice Powell relied in *Bakke*) and **Derek Bok** (who is a professor at the John F. Kennedy School of Government, and former President of Harvard University and former Dean of the Harvard Law School) also report the findings first set out in their recent book, *The Shape of the River*. Bowen and Bok find that minorities admitted to the nation's most selective schools have made significant achievements, both in school and afterwards, and have contributed in important ways to the education of those around them. **Claude Steele**, Chair of the Department of Psychology at Stanford University, describes the limited usefulness of standardized tests in the admissions process, and explains his research that prevailing stereotypes about minorities' academic capabilities artificially depress minority students' test scores.

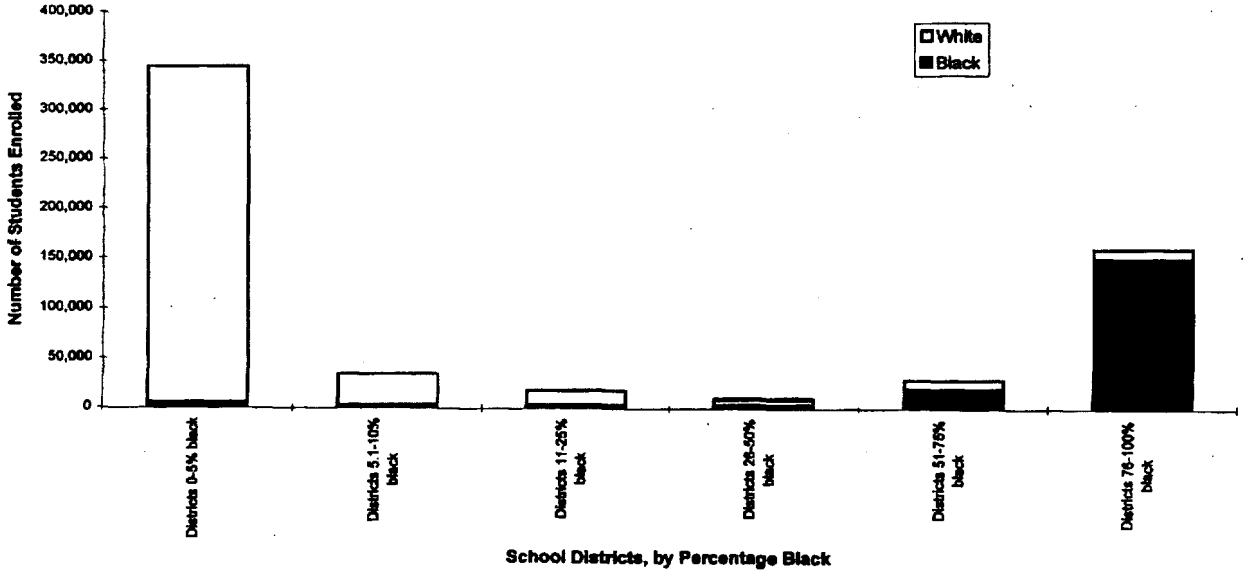
In addition, in the context of the challenge to the consideration of race in the law school admissions process, these expert reports show that the need for diversity in legal education is also pronounced. **Kent Syverud**, Dean of Vanderbilt Law School, shows how a diverse law school class provides a more vibrant and lively opportunity for learning than could otherwise be achieved, and **Robert Webster**, a former judge in Oakland County and former president of the Michigan State Bar, describes the importance of diversity to the practice of law. Bok emphasizes that the American legal profession demands that its law schools continue to increase the diversity of the legal profession.

RACE IN AMERICAN LIFE

Although the United States has become an increasingly diverse society, Americans of different racial and ethnic groups lead remarkably separate lives. They live in separate neighborhoods and attend separate schools. They are unlikely to have any sustained or serious contact with each other and rarely share either the significant events in their lives, such as weddings and funerals, or the more casual aspects of their daily routines, like shopping trips or parent-teacher nights. Race affects one's experiences -- and therefore one's perspectives and beliefs. Yet members of different racial groups seldom benefit from exposure to the ideas and perspectives of people from backgrounds other than their own. Indeed, lack of contact with one another fosters misconceptions and mistrust on all sides and affords little or no opportunity either to disrupt the perpetuation of racial stereotypes or to experience the richness of different racial and ethnic communities. The costs of this persistent racial separation therefore are significant for all Americans -- minorities and non-minorities alike. The report of Professor Sugrue details the causes, the extent, and the costs of racial separation in our society.

Despite the end of official school segregation, Americans of different racial and ethnic groups still attend separate elementary and secondary schools. Nearly all of the nation's largest cities have predominantly minority school districts, and most of them are surrounded by overwhelmingly white suburban school districts. Michigan ranks in the top four states in the country in the degree of black/white school segregation; far more students attend racially integrated schools in the southern states than in Michigan. The schools in the metropolitan Detroit area provide a striking example of this separation. In 60 of the 83 districts in the three-county Detroit metropolitan area, the black student population is three percent or less; 82 percent of the African-American students attend schools in only three districts. More than 90 percent of the area's white students attend schools in districts with black student populations under 10 percent. Only two of these districts come at all close to the area's proportion of African-American, Hispanic, and white students. Sugrue graphically demonstrates this pattern:

FIGURE 1
Racial Composition of School Districts Attended by Blacks and Whites in Detroit Area, 1994-95



The consequences of this racial separation in education are enormous. Nearly every American child between the ages of six and sixteen attends school, but the vast majority of them have no significant opportunity for contact with students of different racial and ethnic groups.

In addition to attending separate schools, Americans of different racial and ethnic groups also live in separate communities. Despite landmark court rulings and reported shifts in white attitudes, residential segregation remains a driving force behind racial separation and division, and it remains deeply entrenched throughout the country. This is particularly true in major metropolitan areas of the northeast and midwest. Three of the ten most segregated metropolitan areas in the United States are in Michigan -- Detroit, the Saginaw/Bay City/Midland area, and Flint. Metropolitan Detroit, home to about half of Michigan's residents, offers a stark example of the persistence of black-white residential segregation. Detroit is the second most segregated metropolitan area in the country (following only Gary, Indiana), and rates of residential segregation in Detroit were higher in 1990 than they were in 1960. Many suburban communities on the borders of Detroit have remained almost completely white despite their proximity to adjoining minority-dominated city neighborhoods. Most Michigan residents, like their fellow citizens elsewhere, therefore live in neighborhoods that are not diverse racially or ethnically.

The costs of this persistent and pervasive racial separation are profound for minorities and non-minorities alike -- particularly as the population of the United States becomes increasingly diverse. Whites and minorities do not live near one another and they do not attend school together. Members of different racial and ethnic groups too often are denied the opportunity to benefit from all that our diverse communities have to offer. Such separation also fosters misconceptions and mistrust, and it affords little or no opportunity to correct the racial stereotypes that are often used as a basis and justification for racial separation. It has consequences for the racial composition of governments and workforces nationwide. And as many employers, particularly in the white collar sector, demand more diverse workforces, it means that few people have the necessary experience to deal with members of different racial groups. It is no surprise that living and learning in such a racialized environment necessarily affects one's experiences and viewpoints. In fact, numerous surveys by public opinion researchers demonstrate that large gaps divide whites and blacks on their views of a wide range of issues, and that those gaps have persisted over time. As Sugrue concludes: "There are unfortunately few places in American society where people of different backgrounds interact, learn from each other, and struggle to understand their differences and discover their commonality."

"Whites and minorities do not live near one another and they do not attend school together. Members of different racial and ethnic groups too often are denied the opportunity to benefit from all that our diverse communities have to offer."

Foner and Camarillo describe the historical events and circumstances that have given rise to the conditions that Sugrue describes. Foner points out that race has been a crucial line of division in American society since the 17th century. Of the approximately 12.5 million persons who crossed the Atlantic to live in the western hemisphere between 1500 and 1820, some 10 million were African slaves. In the Reconstruction period that immediately followed the Civil War, American society formally embraced, for the first time, notions of civil equality. But race remained an important dividing line, and remains so today. Indeed, Foner shows that America's experience with its African-American minority has shaped the way Americans

view questions of race and issues of similarity and difference.

Camarillo's report outlines the historical patterns and legacies of racial isolation and separation of Hispanics in American society. He explains how the Mexican-American and Spanish-American wars of the 19th century, in conjunction with the westward expansion of the United States and the systematic exploitation of immigrant groups, have led to the marginalization and isolation of Mexican-Americans, Puerto Rican-Americans, and other Hispanic groups.

In light of our history and the persistence of racial separation, it is not surprising that race remains a defining characteristic of American life. Even in a world of racial *equality*, the educational imperative that Justice Powell identified in *Bakke* would exist as long as one's race was so prominent a part of one's experience. This is not to say, of course, that members of any racial group are somehow pre-ordained to hold some particular set of opinions or beliefs. Nor does it entail using race as a "proxy" for some other value. It is simply to say that whatever one's opinions and beliefs may be, they are affected by one's experience -- including the experience, for example, of being black, or of being white. And in light of the salience of race, it is not surprising that bringing together students from diverse racial groups creates a dynamic educational environment that stimulates cognitive processes and challenges stereotypes. Indeed, racial diversity in higher education has the powerful consequence of breaking down patterns of racial separation in the neighborhoods, employment settings and social groups of graduates from racially diverse colleges and universities. The University of Michigan argues that the importance of race in American history and in American life undergirds the educational imperative described in *Bakke* for achieving a racially diverse student body. At the same time, the University recognizes that by enrolling a racially diverse student body it is creating an environment that fosters the ability of all racial groups to participate fully in American society.

THE BENEFITS OF DIVERSITY: AN EMPIRICAL ANALYSIS

The University of Michigan composes its student body against this background of racial separation. The University draws nearly two-thirds of its students from Michigan, and nearly half come from the metropolitan Detroit area. Many other students come from similarly segregated communities elsewhere in the country. Most of Michigan's incoming students, therefore, have had little or no significant contact with members of different racial and ethnic groups before they come to Ann Arbor. This fact produces an opportunity for the University to capitalize on the educational benefits created by the presence of a diverse student body.

Professor Gurin's report provides conclusive proof that a racially and ethnically diverse university student body has far-ranging and significant benefits for *all* students, non-minorities and minorities alike. Gurin notes that students, who come to universities at a critical stage of their development, learn better and think in deeper, more complex ways when they are educated with diverse peers. They are also better prepared to participate more fully in our pluralistic democracy when they are educated in such a setting. In fact, diversity experiences in higher education alter the persistence of racial separation in our society. Using national and Michigan student databases, Gurin conducted one of the most extensive empirical analyses ever performed on how diversity in higher education affects students. Her analyses provide striking proof of these benefits of diversity.

Students in late adolescence and early adulthood are at a critical stage of development, and universities are positioned to take advantage of that potential for growth. For many students, the college and graduate school years represent the first

sustained exposure to an environment other than their home communities. This coincides with the time in which young people experiment with new ideas and new roles, and begin to make adult commitments. Research shows that political and social attitudes are shaped during this time, and are heavily influenced by contact with peers. The University of Michigan, like similar institutions of higher education, recognizes this special opportunity and the corresponding obligation to take advantage of it -- in part by bringing together a student body that includes members of different racial and ethnic groups.

"Students learn more and think in deeper, more complex ways in a diverse educational environment."

Students learn more and think in deeper, more complex ways in a diverse educational environment. Extensive research in social psychology, which Gurin surveys, demonstrates that active engagement in learning cannot be taken for granted. In fact, much of the "thinking" we do is actually mindless, the result of previous learning that has become so routine or scripted that thinking is unnecessary. Effortful and conscious modes of thought, rather than automatic thinking, foster better learning as they help students develop new ideas and ways of processing information, increase alertness and stimulate greater mental activity. Educational institutions plainly want to find ways to engage the deeper, less automatic mode of thinking. The social science literature shows that complex thinking occurs when people encounter a novel situation for which, by definition, they have no script, or when the environment demands more than their current scripts provide. Complex thinking occurs when we encounter people who are unfamiliar to us, when they encourage us to think or act in new ways, when relationships are unpredictable, and when people we encounter hold different kinds of expectations of us.

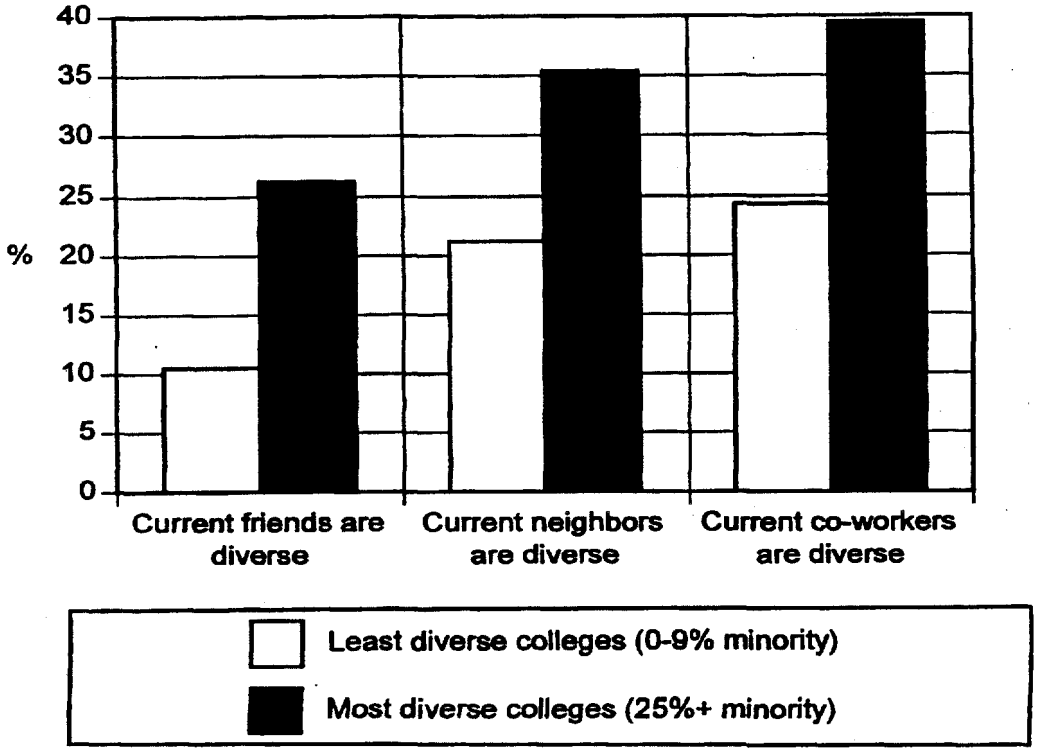
Racial diversity in a college or university student body provides the characteristics that research has determined are central to triggering the effortful thinking that produces the best learning. At the University of Michigan, for example, the racial diversity in Michigan's student body is new and unfamiliar for most students, providing multiple and different perspectives and likely to produce contradictory expectations. A diverse student body is especially likely to increase effortful, active thinking when, like Michigan, institutions of higher education capitalize on these conditions in the classroom and provide a climate in which students from diverse backgrounds frequently interact with each other. Gurin's empirical analyses show that interaction on campus with peers from diverse racial backgrounds, both in the classroom and informally, is positively associated with a host of "learning outcomes." Students who experienced the most racial and ethnic diversity in classroom settings and in informal interactions with peers showed the greatest engagement in active thinking processes, growth in intellectual engagement and motivation, and growth in intellectual and academic skills.

Gurin also proves the benefits of a racially diverse student body in a second major area. Education plays a foundational role in a democracy by equipping students for meaningful participation, and students educated in diverse settings are more motivated and better able to participate in our increasingly heterogeneous, complex and multicultural democracy: They are better able to appreciate the ideas of others -- called "perspective taking" -- when they interact with diverse peers on an equal footing. They are more equipped to understand and consider multiple perspectives, deal with the conflicts that different perspectives sometimes create, and appreciate the common values and integrative forces that harness differences in pursuit of the common good. Encountering students from different racial and ethnic groups on campus enables students to get to know one another and to appreciate both similarities and differences. The results of Gurin's empirical analyses confirm the central role of higher education

in developing students into active citizens and capable participants in a pluralistic democracy. Students who experienced diversity in classroom settings and in informal interactions showed the most engagement during college in various forms of citizenship, and the most engagement with people from different races and cultures. They were also the most likely to acknowledge that group differences are compatible with the interests of the broader community. These effects continued after the students left the university setting.

Significantly, Gurin's empirical work also shows that, as she says, "patterns of racial segregation and separation historically rooted in our national life can be broken by diversity experiences in higher education." Experiences with diversity during college had remarkable consequences for the extent to which graduates in the national study were living racially and ethnically integrated lives in the post-college world. As shown in Figure 2, students with the most diversity experiences during college had the most diverse friends, neighbors, and work associates five years after leaving college. One consequence, then, of the University of Michigan's policy of enrolling a diverse student body, is that it may contribute toovercoming the legacy of racial separation that Sugrue describes.

FIGURE 2:
Structural diversity effects on interracial contact patterns after college among white students raised in predominantly white neighborhoods (CIRP study)



Notes: Diversity of friends, neighbors, and co-workers defined as half or more being non-white. "Current" responses refer to 1994, the time of the second follow-up survey.

THE CONSEQUENCES OF RACE-SENSITIVE ADMISSIONS POLICIES

There is no question that a school's success, and its character, are directly tied to its student body. Each college and university must select a group of students that will -- as a whole -- reflect the values of the institution, make the greatest contributions to the educational process, and apply its teaching to serve the interests of the larger society. The institution's task, then, as Bowen says "is to assemble a total class of students, all of whom will possess the basic qualifications, but who will also represent, in their totality, an interesting and diverse amalgam of individuals who will contribute through their diversity to the quality and vitality of the overall educational environment." The lawsuits against the University of Michigan challenge the University's ability to compose a student body that enables it to achieve its educational mission and fulfill its obligations to the larger society.

Until recently, the debate surrounding race-conscious admissions policies was fueled primarily by guesswork and anecdotal evidence. Bowen and Bok's study, *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions*, now provides the empirical evidence necessary for an informed discussion of this critical issue, as does the work of Gurin, described above.

Contrary to current misconceptions, Bowen and Bok find that the use of race in the admissions processes of selective institutions of higher education over the last twenty years has been very successful. "[T]he data overwhelmingly demonstrate that minority students admitted to selective schools had strong academic credentials, graduated in large numbers and did very well after leaving college. By every measure of success (graduation, attainment of professional degrees, employment, earnings, civic participation, and overall satisfaction), the more selective the school, the more blacks achieved (holding constant their initial test scores and grades)." This evidence dispels the notion that the consideration of race in admission to selective institutions has done a disservice to minority students by placing them in schools in which they are unable to compete and that, as critics have suggested, these students would have been better off attending less selective institutions. While it is true that there remains a gap in the graduation rates of minority and majority students, such a gap is not explained by minority students' inability to complete the curriculum at selective schools. In fact, the graduation rates of black students are substantially *higher* at selective institutions -- 75 percent of black students graduated within six years from the school they first entered, as compared with the 40 percent of blacks and 59 percent of whites who graduated from the 305 schools across the country tracked by the National Collegiate Athletic Association.

There is also no evidence -- again, contrary to prevalent misconceptions -- that the consideration of race in the admissions process stigmatizes minority students. Black graduates of the most selective schools are the most satisfied with their college experience. Over 90 percent of both blacks and whites reported that they were satisfied or very satisfied with their college experience. Moreover, almost 80 percent of white students favored either retaining the current emphasis on a diverse student body or emphasizing it more. Even white students who had been rejected by their first-choice school, who, presumably, might be prone to oppose diversity efforts, supported an emphasis on diversity just as strongly as students who were admitted to their first-choice schools.

The findings of Bowen and Bok, as well as those of Steele, strike at the heart of the much misunderstood concept of "merit" in admissions to institutions of higher education. In our national discourse on this issue, "merit" has come to be defined by test scores and grades. As stated by Bowen, "Many people suppose that all students with especially high grades and test scores 'deserve'

to be admitted and that it is unfair to reject them in favor of minority applicants with lower grades and test scores. But selective colleges do not automatically offer admission as a reward for past performance to anyone. Nor should they." Colleges and universities select students who are not only academically qualified, but who can make a contribution to the school and to society, which is generally manifested by nonquantifiable traits. While grades and test scores may be relevant, they are by no means all that matter.

"[T]he data overwhelmingly demonstrate that minority students admitted to selective schools had strong academic credentials, graduated in large numbers and did very well after leaving college."

More importantly, an inordinate reliance on test scores in higher education admissions would be misguided and would lead to the rejection of qualified students -- particularly minority students -- for several reasons discussed by Steele. Contrary to popular belief, these tests are not designed to test mental capacity nor mastery of a specified curriculum. Standardized tests are instead designed to test developed skills, which are affected by a host of experiential factors. Moreover, the predictiveness of these tests is quite limited. For example, the SAT measures only about 18 percent of the factors that determine freshman grades. Even that small predictive value decreases over time. SAT scores are thus less predictive of sophomore grades, even less predictive of graduation rates, and even less predictive of professional success. Consequently, large score differences -- even as much as 300 points on the SAT -- actually represent a very small difference in the skills that are crucial to academic performance as measured by grades.

Steele effectively illustrates the limitation on the usefulness of standardized tests with an analogy. Suppose that one were to select a basketball team based on a player's ability for free throw shooting. Each player would be given ten opportunities to make free throws. The obvious limitation is selecting basketball players based on the single criterion of free throw shooting, which is only a small portion of the skills that go into actual basketball playing. The same is true of standardized tests, which measure only a fraction of the skills that comprise a good student. A less obvious, but perhaps more complex problem in selecting basketball players based on free throw shooting, is in interpreting a player's scores. Those players who were unable to make any free throws would not be selected, while those who made 10 of 10 would be selected for the team. The difficulty is in deciding which players to select among those who made between four and seven throws. "Middling scores like these could be influenced by many things other than underlying potential for free throw shooting or basketball playing, such as the amount of practice involved, access to effective coaching, whether the player was having a good or a bad day. Roughly the same is true . . . for interpreting standardized test scores: Extreme scores (though less reliable) might permit some confidence in a student's likelihood of success, but middling scores are more difficult to interpret as an indication of underlying promise." Such scores may be influenced by a myriad of factors. Although test scores have some limited purpose in informing admissions decisions, they fail to capture more than a small portion of the factors that constitute academic merit.

Standardized test scores of minority students must be viewed with special caution as minority students tend to underperform on such tests due to a psychological phenomenon known as "stereotype threat." When taking tests that purport to measure ability, the performance of talented minority students may be undermined by their fear that they will conform to negative racial stereotypes. Stereotype threat persists even among middle-class blacks, indicating that socioeconomic status does not explain their underperformance.

Steele has confirmed the existence of stereotype threat by randomly assigning two groups of black and white students who were statistically equated on ability level, and giving each group a difficult 30-minute verbal test. The first group was told that the test measured ability; in that instance, black students performed much worse than white students. A second group of black and white students were given the same test, but told that it was a problem-solving task that had nothing to do with ability. In that instance, the performance of black students matched that of the white students. In the latter situation, the negative stereotype of blacks' intellectual or academic abilities was irrelevant to the black students because the task did not measure ability. In other words, the "stereotype spotlight" was turned off. These same results have been obtained with other groups whose abilities in certain areas are negatively stereotyped in society: women taking difficult math tests; white male athletes being given a test of natural athletic ability; and Hispanics taking a difficult English test. Interestingly, the detrimental effects of stereotype threat on test performance is greatest for those students who are most invested in doing well on the test. That is, stereotype threat affects the "cream of the crop" -- those students who are most skilled, motivated, and confident. It is especially for them that standardized test scores are failing to reflect their true talents.

Finally, one other cautionary note about standardized test scores bears discussion. The difference in average test scores between minority and majority students admitted to the University of Michigan and other selective colleges and universities have been misinterpreted as a sign that there is a lower admissions standard for minorities. In fact, the difference on most college campuses can be explained by the fact that minority students -- especially blacks -- are extremely underrepresented at the higher ranges of test scores and overrepresented at the ranges closer to an admissions threshold. This means that even though the averages of both majority and minority test scores exceed the threshold for admitting any applicant, the minority average will be lower than the average majority score. For instance, if a school were to use an SAT score of 1100 as a cut-off, and admitted all applicants with scores over 1100, the white students would have a higher average SAT score than black students, although all scores would be over 1100. This is so because there are simply more white students who score at the upper end of the SAT distribution. Thus, differences in average scores prove nothing about admissions standards.

RACIAL DIVERSITY IN LEGAL EDUCATION

Bowen and Bok's landmark study of the effectiveness of race-conscious admissions programs, as well as Gurin's research, were based on data relating to undergraduate education. Their work nevertheless supports the premise that achieving diversity is essential in legal education. As the Supreme Court observed nearly 50 years ago in *Sweatt v. Painter*, the law school is a "proving ground for legal learning and practice," and it "cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students, and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and exchange of views with which the law is concerned."

The interest in achieving a diverse student body is, without doubt, somewhat different in legal education than it is in undergraduate education. Because law schools provide a form of professional training, rather than a general liberal education, the educational interest in enrolling, for example, a concert pianist or an All-American linebacker, may be less pronounced than in undergraduate education. But because of the way in which the law affects nearly all social relations, such an interest is still

"Because of the pervasive importance of race in American life, the presence of meaningful racial diversity is essential to the effective teaching, and learning, of American law."

present in legal education. And the interest in achieving a racially diverse student body, given the importance of race in American life and American law, is pronounced.

The conditions that Gurin identifies in the context of undergraduate education that render college students particularly amenable to the benefits of diversity also generally exist in legal education. The experience of most students in their first year of law school, particularly in institutions that rely on the Socratic method, requires a new and unfamiliar way of thinking, that is discrepant from one's prior experiences, that provides a source of multiple and different perspectives, and that is likely to produce contradictory expectations. As Syverud (who is now the editor of the Journal of Legal Education, and who began his career as a law teacher "skeptical that considering race in admissions had a positive effect on the educational experience of law students") explains, "[i]n my own civil procedure class, I call upon each student several times a semester, usually questioning each student for fifteen to twenty minutes. The purposes of this method are manifold; they include the desire to engage the student closely and carefully with a legal text and to make the classroom dynamic, lively, and interesting. At least as important, the method consciously seeks to make the students think, to learn from each other, and to learn to be able to see any set of facts from different points of view." As Gurin's report explains, these are exactly the conditions -- when students are facing new and different challenges and their pre-existing ways of thinking are being called into question -- in which a racially diverse educational setting is most likely to lead to active and engaged thinking.

Indeed, one of the most important objectives of American legal education is to cultivate in law students the ability to understand an issue from many perspectives at the same time. For reasons that are described in the reports submitted by Sugrue, Foner, and Camarillo, Americans of different races have experiences that affect their views of many subjects that figure prominently in legal education. For some of these issues -- such as civil rights law, criminal justice, and the First Amendment -- the relevance of race may be obvious; for other issues, such as civil procedure and property law, it may be more subtle. And for all of these issues, students may be surprised by similarities or differences in views that they had not anticipated. Because of the pervasive importance of race in American life, the presence of meaningful racial diversity is essential to the effective teaching, and learning, of American law.

THE NEED FOR RACE-SENSITIVE ADMISSIONS POLICIES: THE ABSENCE OF ALTERNATIVE MEANS TO OBTAIN RACIAL DIVERSITY

Highly selective colleges and universities, such as the University of Michigan, could not achieve racial diversity if they did not consider race as a factor in admissions. The data show that each of the proposed alternative methods of achieving diversity simply cannot work. There are two alternatives typically offered by those who oppose race-sensitive admissions policies: (1) the use of family income as a criterion instead of race; and (2) the admission of all students, regardless of race, who graduate above a certain class rank. Neither system would achieve racial and ethnic diversity and both contain flaws that would undermine the educational goals of selective colleges and universities.

The use of a class or income-based system would fail to attain racial diversity because there are too few blacks and Hispanics from poor families

who have strong enough academic records to qualify for admission to selective institutions. Children from poor black and Hispanic families make up less than half of all poor children and are much less likely than poor whites to excel in school. To reach these students, schools would need to lower their academic thresholds to a point that would jeopardize their academic standing. Equally ineffective in achieving diversity would be a system that admits the top ten percent of high school graduates. As an initial matter it is appropriate to question the soundness of adopting a policy that would be successful only as long as the high schools from which student apply remain racially segregated. Furthermore, at the University of Michigan, such a policy would result in a dramatic drop in the presence of underrepresented racial minorities in the student body. Even if such a policy produced a racially diverse student body, it would result in the admission of students from weaker schools who may be unprepared for college, and in the rejection of better-prepared students from stronger schools. Because high schools differ so substantially in the academic abilities of their students and the level of difficulty of their curricula, all applicants who graduate above a certain class rank cannot be treated equally. These efforts, however well-intentioned, are ineffective in achieving any meaningful racial and ethnic diversity in selective institutions.

DIVERSITY IN HIGHER EDUCATION: THE CALL FROM BUSINESS AND THE PROFESSIONS

Leaders in the fields of law, business, and other professions demand that institutions of higher education be diverse. These professions recognize that not only do they need colleges and professional schools to turn out diverse classes of students to bring diversity to the professions, but also that students educated and trained in diverse settings will be better equipped to function and thrive in an increasingly diverse world.

In the context of the legal profession, for example, one of the most important skills for a lawyer to develop is the ability to work well with those of diverse backgrounds. Good advocacy requires understanding both the client and the adversary. Syverud, however, notes that many students come to law school with strong advocacy skills and poor listening skills. Students often assign to people of different races viewpoints that are not informed by experience or direct dialog. In Gurin's terms, they think in an "automatic" mode. Syverud notes, however, that "[t]hey are very often wrong. They don't know what they don't know, and it is my job to show them what they have to learn, every time, from every individual client or adversary."

Law schools have a responsibility to train students to become negotiators, problem solvers, managers, counselors, investigators and mediators. Syverud observes that "skills instruction is enhanced dramatically for all students by the interaction in class of future lawyers of all races, and by the different and at times unpredicted viewpoints different people may bring to the discussion." This phenomenon is confirmed by Webster's experience. Webster, who is white, is a former president of the Michigan state bar, and a former judge on the Oakland County Circuit Court. He grew up in a predominantly white neighborhood and attended predominantly white schools. As a 1955 University of Michigan Law School graduate, he did not have any meaningful interaction in law school with members of other racial groups. Nor were his experiences more varied at Hill, Lewis, Adams Goodrich & Tait, a leading Detroit law firm. It was not until he was named to the bench that he found himself in contact with those of other racial and ethnic groups. Those experiences "exposed and destroyed racial stereotypes I did not even know I harbored . . . But I did not only learn about differences; I also learned about similarities, about how much of the human condition transcends racial boundaries. Now, more than ever, our profession needs lawyers to be bringing these kinds of skills

and insights to the bench -- not to be acquiring them there."

Perhaps for this reason, the legal profession itself demands that American law schools graduate diverse classes of young lawyers. In 1984, an American Bar Association report noted that the legal profession has a duty that "arises out of the unique offices that lawyers hold as ministers of the law and guardians of its conscience, and as teachers and advocates of fairness and equality." A 1987 report of the Michigan Supreme Court, reached the same conclusion, noting that "the presence of minorities in the profession increases public perception of fairness." And a 1998 report re-affirmed that position, stating that by "reflect[ing] the diversity of the constituency it serves," the justice system avoids "[t]he appearance of bias, as well as the reality of bias." Perhaps for these reasons, the American Bar Association and the Association of American Law Schools, both of which serve as accrediting bodies, require as a condition of accreditation that schools seek to enroll diverse classes of students. If American law schools were precluded from considering race as a factor in admissions, the public perception that the American legal system can be trusted to provide equal justice under law would be imperiled.

"The significance of diversity in all walks of life will only intensify in the future. The seeds for such a future must continue to be sown today in our nation's colleges and universities."

Business, government, and other professions make similar demands on higher education. According to current estimates, by 2030, 40 percent of all Americans will be members of minority groups. In our increasingly multi-racial society, corporations are making significant strides in recruiting and developing a workforce that values diversity and that can effectively conduct business worldwide. As Bowen attests, the business world has recognized the advantages of hiring graduates of universities with diverse populations -- whether minorities or non-minorities themselves -- who bring to the table an ability to work productively in a diverse environment. The significance of diversity in all walks of life will only intensify in the future. The seeds for such a future must continue to be sown today in our nation's colleges and universities.

EXPERT REPORT OF THOMAS J. SUGRUE

Gratz, et al. v. Bollinger, et al., No. 97-75321 (E.D. Mich.)
Grutter, et al. v. Bollinger, et al., No. 97-75928 (E.D. Mich.)

TABLE OF CONTENTS

LIST OF TABLES

I. STATEMENT OF QUALIFICATIONS

My name is Thomas J. Sugrue. I am Associate Professor of History and Sociology at the University of Pennsylvania, where I have been a member of the faculty since 1991. I was born in Detroit, Michigan in 1962 and received my primary and secondary education in schools in Detroit and its suburbs. I graduated with a B.A. in history, Summa Cum Laude, from Columbia University in 1984. I received a second B.A. in 1986 from Cambridge University. I was awarded an M.A. degree from Cambridge University in 1990. I earned an A.M. and a Ph.D. degree in history from Harvard University in 1987 and 1992 respectively.

My first book, The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit, was published by Princeton University Press in 1996 and has won four major awards, including the 1998 Bancroft Prize in American History. I have co-edited another book and have published more than a dozen scholarly articles and book chapters. In addition, I have written dozens of reviews, short essays, and professional papers. My research has concentrated on the status of African Americans and their relationship to the larger society. I have written extensively on the topic of race relations, with special attention to the perception and treatment of minorities over the last half century. I have also written about the economic, political, and social roots of racial inequality and poverty in the twentieth-century United States. I have conducted research in archives around the country. My book and a number of my articles discuss race relations and inequality in Michigan, with close attention to metropolitan Detroit. A detailed record of my professional qualifications, including a list of publications, awards, and professional activities, is set forth in the curriculum vita attached as Appendix A.

At the request of attorneys with Wilmer, Cutler, and Pickering, I have conducted research on the patterns and costs of racial separation and division, past and present, in the United States, with special attention to Michigan. My report is based on my extensive research in the reports of various local, state, and federal government agencies, census and other statistical reports, and relevant scholarly books and articles by historians, sociologists, political scientists, and economists. I also draw material from my own previously published books and articles.

II. INFORMATION CONSIDERED IN FORMING OPINIONS

A bibliography of sources consulted is attached to this report as Appendix B.

III. OTHER EXPERT TESTIMONY; COMPENSATION

I have not testified as an expert at trial or by deposition within the preceding four years.

I am being compensated at a rate of $200/hour for my work in connection with this matter.

IV. SUMMARY AND CONCLUSIONS

The population of the United States, and of Michigan in particular, has become increasingly diverse over the past thirty years. Americans of different races and ethnicities, however, live in worlds that have a long history of separation and are still, to a great extent, separate. This widespread separation between groups exacts a high price. This report examines the scope, causes, and consequences of persistent racial separation in the United States, with special attention to Michigan and metropolitan Detroit. I have chosen to focus on Michigan and Detroit as examples because the University of Michigan draws nearly two-thirds of its students from its home state and over half of its students from the metropolitan Detroit area.

While the aggregate population of the United States is increasingly diverse, the nation's minority groups are disproportionately concentrated in certain states and regions. The same pattern is true in Michigan: whole sections of Michigan are virtually all white. Almost three quarters of Michigan's blacks, for example, live in the Detroit area. Virtually all blacks, and more than 85 percent of Hispanics, live in Michigan's eleven metropolitan areas. This means that the vast majority of Michigan's counties have tiny minority populations. White residents in those counties are unlikely to have any significant contact with members of racial or ethnic minority groups.

Even when whites and minorities live in the same geographic regions, they still live in separate neighborhoods and lead separate lives. As a result of longstanding official policies, standard practices in the real estate industry, and private attitudes, the degree of racial separation in residence in the United States remains high. Three of the ten most segregated metropolitan areas in the United States are in Michigan. Metropolitan Detroit, home to about half of Michigan's residents, offers a particularly stark example of the persistence of black-white segregation. Detroit is the second most segregated metropolitan area in the country (following only Gary, Indiana), and rates of residential segregation in Detroit were higher in 1990 than they were in 1960. Many suburban communities on the borders of Detroit have remained almost completely white despite their proximity to adjoining minority-dominated city neighborhoods.

Largely because of the patterns of residential segregation, but also as a result of years of official policies, American primary and secondary schools are seldom diverse. Most students attend school with other students like themselves. Michigan ranks in the top four states in the country in the degree of black/white school segregation. In the metropolitan Detroit area, for example, 82 percent of the black students attend schools in only three school districts, which are nearly all black. More than 90 percent of the area's white students attend schools in districts with black student populations under ten percent (and most under three percent).

The costs of this persistent and pervasive racial separation are profound for minorities and non-minorities alike. Whites do not live near minorities, and they do not attend school together. Residential and educational distance fosters misconceptions and mistrust. It affords little or no opportunity to disrupt the perpetuation of racial stereotypes that are a basis and justification for racial separation. The high degree of separation by race reinforces and hardens perceptions of racial difference. It creates racially homogenous public institutions that are geographically defined, limits the access of many minorities to employment opportunities, and leads to racial polarization in politics. Residential segregation has led to a concentration of poverty in urban areas and means that members of minority groups, even those who are considered middle-class, have direct experience with poverty and its consequences. And numerous surveys by public opinion researchers demonstrate that large gaps divide whites and blacks on their views of a wide range of issues, and that those gaps

have persisted over time. These patterns are the consequence of the fact that few Americans of different racial and ethnic backgrounds interact in a meaningful way on a daily basis.

In sum, today's racial and ethnic separation is a legacy of the past which we have not yet overcome.

OPINIONS TO BE EXPRESSED

V. INTRODUCTION

At the end of the twentieth century, the United States is a remarkably diverse society. It grows more diverse by the day, transformed by an enormous influx of immigrants from Latin America, the Caribbean, Africa, and Asia. In an increasingly global economy, Americans are coming into contact with others of different cultures to an extent seen only in times of world war. Yet amidst this diversity remains great division. When the young black academic W.E.B. DuBois looked out onto America in 1903, he memorably proclaimed that "the problem of the twentieth century is the problem of the color line."[1] Over the last one hundred years, that color line has shifted but not disappeared. The brutal regime of Jim Crow and lynching was vanquished by a remarkable grassroots movement for racial equality and civil rights. Overt expressions of racism are less common than they were a half century ago. Many non-white Americans, among them African Americans, Hispanics, and Native Americans, are better off than their forbears. Despite all of the gains of the past century, however, the burden of history still weighs heavily. Color lines still divide and separate Americans. Many Americans have managed diversity by avoiding it -- by retreating into separate communities walled off by ignorance and distrust. In American public and private life, there are far too few opportunities to cross racial and ethnic barriers, to understand and appreciate differences, to learn from diversity rather than use it as an excuse for reproach and recrimination.

In the midst of our increasingly heterogeneous society are islands of homogeneity, places sometimes created by choice but more often built by inequity and injustice. All too many Americans today live in separate racially homogeneous worlds, in communities that are racially homogeneous. A majority of American children attend primary and secondary schools with students like themselves. They seldom benefit from exposure to the ideas, mores, and perspectives of students from backgrounds other than their own. Their experiences do not reflect the heterogeneity that characterizes the American population. Whites, particularly youth, are unlikely to have any sustained or serious contact with African Americans, Hispanics, or Native Americans. Many African Americans are unlikely to have any sustained contact with whites outside of their workplaces, with the exception of authority figures such as teachers, shopkeepers, and police officers. While separation has sometimes fostered a sense of solidarity among people with shared aspirations and values, it is a seedbed for misinformation, hostility, and fear.

The persistence of separation by race and ethnicity -- past and present -- has shaped the life experiences and attitudes of whites and minorities in fundamental ways. Despite measurable gains in the economic opportunities open to at least some members of minority groups, large gaps in socioeconomic status persist. The persistence of pejorative racial and ethnic stereotypes has greatly limited the opportunities available to blacks, Hispanics, and American Indians. Interracial distrust and suspicion is rife. Living and learning apart has created divergences in white and minority perceptions of many of America's key social institutions such as business, government, and the law. Racial division has also prevented many blacks, whites, Hispanics, and American Indians from

seeing the common ground that we share. The mists of racial misunderstanding becloud the shared visions and aspirations and the common struggles that have the potential to bring us together.

VI. RACIAL PATTERNS IN THE UNITED STATES

Demographic patterns in the United States have changed significantly over the last half century. Fifty years ago, a majority of African Americans lived in rural areas and in the south. Today, most live in urban areas and a majority live outside the south. At mid-century, the United States had few new immigrants. Most were of European descent, either family members of immigrants already established here or refugees from war-ravaged countries. Asian immigration had been restricted since the late nineteenth century; Central and South American immigration consisted primarily of temporary and seasonal workers. Today, the flow of immigrants to the United States is large, a consequence of the reform of immigration laws beginning in the mid-1960s. The face of the new immigration is non-European and non-white.

At the turn of a new century, the population of the United States is remarkably diverse (Table 1). The proportion of the population classified as white is shrinking and the proportion of non-white groups is growing.

Table 1: Percentage Racial and Ethnic Composition of the United States, 1900-1996

Year	White	Black	Other	American Indian	Asian/Pacific Islander	Hispanic
1900	87.9	11.6	0.5	NA	NA	NA
1910	88.9	10.7	0.4	NA	NA	NA
1920	89.7	9.9	0.4	NA	NA	NA
1930	89.8	9.7	0.5	NA	NA	NA
1940	89.8	9.8	0.4	NA	NA	NA
1950	89.5	10.0	0.5	NA	NA	NA
1960	88.6	10.5	0.9	NA	NA	NA
1970	87.6	11.1	1.3	NA	NA	NA
1980	85.9	11.8	---	0.6	1.7	6.4
1990	83.9	12.3	---	0.8	3.0	9.0
1996	82.8	12.6	---	0.9	3.7	10.7

Source: U.S. Bureau of the Census, Statistical Abstract of the United States: 1997 (Washington, DC: U.S. Government Printing Office, 1997), Tables 12 and 13. For 1980 and 1990, the category "other" was broken down into the categories "American Indians and Alaska Natives" and "Asian and Pacific Islanders." Hispanics may be of any race. NA means data not available.

Today, the largest non-white population in the United States is of African descent; 12.6 percent of the nation's population is black. The African American population of the United States has grown primarily because of natural increase, but also because of immigration, primarily from the Caribbean and Africa. Particularly striking has been the growth of the nation's Hispanic population, a

category that includes Spanish-speaking immigrants from the Caribbean, Central and South America, and Mexico, as well as the descendants of Mexicans whose land was annexed to the United States in the nineteenth century. Today, 10.7 percent of the nation's population is Hispanic. The United States Bureau of the Census predicts that the nation's Hispanic population will soon exceed the African American population. The number of Americans of Hispanic descent is growing rapidly because of immigration and relatively high birth rates. The new immigration has also dramatically increased the number of Asians and Pacific Islanders in the United States, a group now comprising 3.7 percent of the U.S. population. The American Indian, Eskimo, and Aleut population of the United States is small, but has grown somewhat as the stigma of Indian descent has shrunk and as the native population has begun to repopulate after centuries of depopulation by war and disease.[1]

*Note on terminology: The United States Bureau of the Census currently uses the terms white, black, American Indian/Eskimo/Aleut, and Hispanic. Hispanics may be of any race. I will follow customary practice and use the terms black and African American interchangeably. I will use the term American Indian as shorthand for American Indian/Eskimo/Aleut.

The aggregate population of the United States is increasingly diverse, but the nation's minority groups are concentrated in certain regions and, in some cases, certain states. Blacks live disproportionately in the former slave states of the south and in northeastern and midwestern cities where they settled in large numbers as migrants over the course of the twentieth century. The Hispanic population is heavily concentrated in just a few states. Nearly three quarters of the nation's Hispanic population lives in just five states: California, Texas, New York, Florida, and Illinois. More than half of the nation's Hispanic population lives in California and Texas.[2] American Indians are scattered throughout the country in small numbers, but are heavily concentrated in a few states, most in the west, with large Indian reservations. Half of the nation's American Indian population lives west of the Mississippi River. Nearly three-fifths of the Native American population lives in just eight states: Alaska, Arizona, California, New Mexico, North Carolina, Oklahoma, Texas, and Washington.[3]

VII. RACIAL PATTERNS IN MICHIGAN

The racial divisions that characterize life in Michigan are deeply rooted in the history of the nation and of the state itself. Native Americans have long lived on the margins of white society, literally and figuratively. Virtually the entire American Indian population of the state was extirpated or forced to migrate to the west in the eighteenth and nineteenth centuries. The small remaining American Indian population was largely concentrated on reservations, primarily in northern Michigan where short growing seasons, poor soil, and the lack of marketable natural resources have kept them isolated and impoverished. Reservation schools remained among the most troubled and under-funded in the state, but were the only choice available to many American Indians until 1934, when they were first officially permitted to enroll in Michigan's public schools.[4] American Indian migrants to cities also found themselves largely living in conditions of poverty, mainly in the poorest, most decrepit sections of cities, such as Detroit's Cass Corridor, where they attended primarily segregated schools with blacks.[5]

Michigan has a small Hispanic population whose history is distinct from that of other Michigan residents. Beginning in the 1920s, Mexican migrant farm workers were recruited to the state by sugar beet and fruit growers. The World War II-era bracero program brought even larger numbers of seasonal farm workers to the state. Most lived in temporary encampments and many worked in conditions of near-servitude. Because of their families' transiency and because of hostility on the part of local educational officials, Mexican farm workers' children rarely attended schools for any sustained period of time.[6] Other Mexicans came to Michigan to work in the automobile industry, particularly at Ford, where they were generally relegated to the least desirable jobs such as spray painting, helper positions, and foundry work. To supplement their income, many worked in low-paying pick and shovel jobs and as common laborers.[7] By the onset of the Great Depression, Detroit was home to nearly 15,000 Mexicans, most of whom lived in substandard housing, many in tent and boxcar camps along the city's rail lines. Although Mexicans and other Hispanics did not face the same degree of residential discrimination and segregation as did African Americans, they suffered discrimination particularly in workplaces.[8] Children of Mexican descent attended schools where few teachers had the language skills to teach them adequately. In addition, Mexican Americans were subject to repatriation and deportation campaigns. During the Great Depression, Mexican immigrants in Michigan, even those who had been naturalized as United States citizens, were routinely deported with the encouragement of Detroit Public Welfare Department officials who hoped to cut the poor relief rolls. A second wave of deportation, this based on citizenship rather than economic status, occurred in the early 1950s. Michigan's Hispanic population grew again with the immigration reforms of the 1960s.[9]

Blacks in Michigan, as I describe at greater length below, have long lived separately from other groups. Their economic, social, and educational circumstances differed significantly from other groups. Beginning with the World War I era migration of blacks to the north, they suffered great hostility from whites. Persistent racial discrimination entrapped blacks in the most insecure, poorly paying jobs. They bore the brunt of the effects of economic restructuring that began unheralded in the early 1950s as Michigan's urban job base began to erode when firms moved to white suburban and rural areas. They encountered intense resistance in their search for decent housing; their lack of free choices in the housing market created a high degree of residential segregation that has not changed significantly in the last half-century. Segregation had educational consequences as well: blacks were and are unlikely to attend schools with whites.[10]

Over the course of the twentieth century, Michigan has remained a majority white state, with a sizeable African American minority, and small

Hispanic and American Indian populations (Table 2). Approximately 82 percent of Michigan's population is white; about 14 percent is African American; slightly more than 2 percent is Hispanic, mainly of Mexican descent; and under one percent is of American Indian/Eskimo/Aleut background.

As a whole, the state's minority population is younger than its white population; as a consequence, Michigan's minorities are represented in higher numbers and whites in smaller numbers in the state's population attending primary and secondary schools.

Table 2: Michigan Population by Race/Ethnicity

	Population	% of Total Population	% of Total School Population
Total	9,295,297		
White*	7,649,951	82.3	77.4
Black*	1,282,744	13.8	17.5
American Indian/ Eskimo/Aleut*	52,571	0.6	1.1
Asian/Pacific Islander*	102,506	1.1	1.5
Other Race*	5,929	0.1	N.A
Hispanic+	201,596	2.2	2.6
Mexican	138,312	1.5	N.A.
Puerto Rican	18,538	0.2	N.A.
Cuban	5,157	0.1	N.A.
Other Hispanic	39,589	0.4	N.A.

Sources: 1990 U.S. Census of Population and Housing, Summary Population and Housing Characteristics: United States, 1990 CPH-1-1 (Washington, DC: U.S. Government Printing Office, 1992), Table 2; National Center for Educational Statistics, Digest of Education Statistics, (Washington, DC: U.S. Department of Education, 1996), Table 44, figures for public school enrollment, Fall 1994. N.A. means data not available.

*Figures for non-Hispanic population.

+Hispanics may be of any race (black, white, Asian/Pacific Islander, and American Indian/Eskimo/Aleut).

Whole large sections of Michigan are virtually all white. The state's African American population has long been concentrated in the state's largest city, Detroit. Almost three quarters of Michigan's blacks live in Detroit area. Altogether, 96.3 percent of Michigan's blacks live in the state's eleven census-defined metropolitan areas (Ann Arbor, Battle Creek, Benton Harbor, Detroit, Flint, Grand Rapids, Jackson, Kalamazoo, Lansing/East Lansing, Muskegon, and Saginaw/Bay City/Midland). Nearly half of Michigan's Hispanics live in the Detroit area; 85.3 percent of Hispanics live in Michigan's eleven metropolitan areas. Slightly less than two-thirds of Michigan's Native American population live in the city's 11 metropolitan areas.[11]

The concentration of Michigan's minority populations can be seen in county-level census data. The vast majority of Michigan's eighty-three

counties have tiny minority populations (Table 3). Forty-two (or more than half) of Michigan's counties have populations of 0.5 percent black or less; forty-eight counties have populations less than 1 percent black; fifty-nine counties have populations less than 2 percent black; seventy-two counties have populations less than 10 percent black. There are a few small enclaves of blacks outside metropolitan areas, most notably in Lake County, the site of a traditional black summer resort, and in Cass County, home to a small cluster of black farmers dating back to the nineteenth century.[12] Likewise, many places in Michigan are nearly devoid of Hispanics and American Indians. Forty-one counties have populations that are 1 percent or less Hispanic. Sixty-eight of Michigan's eighty-three counties have Hispanic populations less than the statewide percentage. Small pockets of Mexican Americans live in scattered small towns and rural areas, usually in the vicinity of fruit orchards and sugar beet farms that have long recruited migrant Mexican farm workers. Over two-fifths of Michigan's American Indians live scattered throughout the state, with concentrations on Indian reservations in a handful of central and northern Michigan counties.

Table 3: Michigan Counties, Percentage Black, American Indian/Eskimo/Aleut, and Hispanic Population

	Black	American Indian/ Eskimo/Aleut	Hispanic
Alcona	0.3	0.6	0.5
Alger	2.4	3.4	0.5
Allegan	1.6	0.6	3.2
Alpena	0.1	0.3	0.5
Antrim	0.1	1.2	0.5
Arenac	0.1	0.9	1.1
Baraga	0.6	11.5	0.4
Barry	0.2	0.4	1.0
Bay	1.1	0.6	3.1
Benzie	0.2	1.9	1.1
Berrien	15.4	0.4	1.7
Branch	1.7	0.5	1.1
Calhoun	10.6	0.5	1.9
Cass	7.5	0.9	1.3
Charlevoix	0.1	1.8	0.5
Cheboygan	0.1	2.2	0.4
Chippewa	6.3	11.0	0.8
Clare	0.2	0.6	0.5
Clinton	0.4	0.5	2.2
Crawford	2.2	1.2	0.6
Delta	0.0	2.1	0.4
Dickinson	0.1	0.5	0.4
Eaton	3.6	0.5	2.4

	Black	American Indian/ Eskimo/Aleut	Hispanic
Emmet	0.5	2.7	0.5
Genesee	19.6	0.7	2.1
Gladwin	0.1	0.5	0.6
Gogebic	1.3	1.6	0.4
Grand Traverse	0.4	0.9	0.8
Gratiot	0.8	0.4	3.8
Hillsdale	0.3	0.3	0.9
Houghton	0.4	0.4	0.5
Huron	0.1	0.3	1.1
Ingham	9.9	0.7	4.8
Ionia	5.3	0.4	2.1
Iosco	2.1	0.8	1.2
Iron	0.0	0.8	0.5
Isabella	1.2	1.9	1.3
Jackson	8.0	0.4	1.5
Kalamazoo	8.9	0.5	1.8
Kalkaska	0.1	0.8	0.6
Kent	8.1	0.6	2.9
Keeweenaw	0.1	0.2	0.4
Lake	13.4	0.9	0.7
Lapeer	0.6	0.4	2.0
Leelanau	0.1	2.7	1.1
Lenawee	1.6	0.3	6.0
Livingston	0.6	0.6	0.8
Luce	0.0	5.7	0.5
Mackinac	0.0	15.8	0.3
Macomb	1.4	0.4	1.1
Manistee	0.3	0.9	1.5
Marquette	1.7	1.3	0.8
Mason	0.6	0.7	1.6
Mecosta	2.6	0.7	1.0
Menominee	0.0	1.5	0.2
Midland	1.0	0.4	1.4
Missaukee	0.0	0.6	0.6
Monroe	1.8	0.4	1.6
Montcalm	1.8	0.7	1.7
Montmorency	0.0	0.5	0.7
Muskegon	13.6	0.8	2.3
Newaygo	1.2	0.6	2.5
Oakland	7.2	0.4	1.8

	Black	American Indian/ Eskimo/Aleut	Hispanic
Oceana	0.3	1.1	6.2
Ogemaw	0.1	0.7	0.6
Ontanogan	0.0	1.2	0.4
Osceola	0.3	0.6	0.7
Oscoda	0.0	0.5	0.6
Otsego	0.1	0.6	0.4
Ottawa	0.5	0.3	4.2
Presque Isle	0.1	0.3	0.3
Roscommon	0.2	0.5	0.5
Saginaw	17.4	0.4	6.2
Saint Clair	2.1	0.5	1.8
Saint Joseph	2.7	0.4	0.9
Sanilac	0.1	0.5	2.3
Schoolcraft	0.1	6.3	0.4
Shiawassee	0.1	0.6	1.5
Tuscola	0.9	0.6	2.1
Van Buren	6.7	0.9	3.2
Washtenaw	11.2	0.4	2.0
Wayne	40.2	0.4	2.4
Wexford	0.1	0.7	0.6

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing: Michigan, CP-2-24 (Washington, DC: U.S. Government Printing Office, 1993).

VIII. SEPARATE WORLDS: RESIDENTIAL SEGREGATION AND RACIAL ISOLATION

The most stubborn continuity in American race relations has been residential segregation by race. In Michigan, as in the nation as a whole, whites and minorities seldom live in the same neighborhoods. The questions -- where do you live? and who are your neighbors? -- are not trivial. A person's perspectives on the world, his friends, her group of childhood peers, his networks and job opportunities, her wealth or lack of wealth, his quality of education -- all of these are determined to a great extent by where he or she lives.

Most Michigan residents live in neighborhoods that are not diverse racially or ethnically. There are few places where children of different racial backgrounds play together. Blacks and whites seldom talk across the fence. They rarely meet causally on the streets. They do not worry together at their schools' parent-teacher nights. They do not often attend each other's birthday parties or belong to the same social clubs and churches or attend town meetings together. As children, they seldom belong to the same neighborhood sports teams. They rarely swim in the

same pools. As teenagers, they rarely hang out together in malls or go on camping trips together or date. As adults, they intermarry very infrequently. They are not often at each others' weddings or funerals. Chance events or rituals, profound moments of bonding, or everyday social interactions -- these are the fabric of everyday life, the basis of relationships, of community, of commonality. Whites and non-whites are usually not part of each other's daily routines or witnesses to each other's life-changing events. Those routines and events occur in separate worlds. However diverse the United States has become in aggregate, the daily events and experiences that make up most Americans' lives take place in strikingly homogeneous settings.

Current Patterns of Residential Segregation

Residential segregation is the linchpin of racial division and separation. By segregation, I mean the separation of groups into neighborhoods dominated by members of a single racial or ethnic group. In most Michigan metropolitan areas, as in the nation, the degree of black-white racial separation in residence remains high, despite evidence of shifting white attitudes about race, despite successful court challenges to programs that perpetuated racial segregation, such as Shelley v. Kraemer (1948), which ruled that racially restrictive covenants were unenforceable, and Hills v. Gautreaux (1976), which ruled against racially isolated public housing projects, and despite the Fair Housing Act of 1968 and litigation against discrimination in rental and real estate practices in the last three decades.[13] The degree of black-white segregation has tended to lessen in communities with small black populations, areas around military bases (reflecting the racial heterogeneity of the armed services), and university towns.[14]

While patterns of black-white segregation are deeply entrenched throughout the country, racial segregation rates are particularly high in large metropolitan areas in the northeast and midwest, and particularly in Michigan. Table 4, based on data from the 1990 U.S. Census, lists the metropolitan areas in the United States with the highest degrees of black/white segregation. The metropolitan areas are ranked by their Index of Dissimilarity, a measure of the percentage of blacks who would have to move for the distribution of blacks and whites in every neighborhood to be the same as their representation in the overall population of the metropolitan area.

Table 4: The Most Segregated Metropolitan Areas in the United States, Black/White

Metropolitan Area	Index of Dissimilarity
1. Gary/Hammond, IN	89.9
2. Detroit, MI	**87.6**
3. Chicago, IL	85.5
4. Cleveland, OH	85.0
5. Milwaukee, WI	82.6
6. Saginaw/Bay City/ Midland, MI	**82.2**
6. Newark, NJ	82.2
8. Buffalo, NY	81.7
9. New York, NY	81.5
10. Flint, MI	**81.2**
11. Glens Falls, NY	77.5
12. Philadelphia, PA	77.1
13. St. Louis, MO	76.9
14. Muskegon, MI	**76.8**
14. Bergen/Passaic, NJ	76.8
16. Fort Myers/Cape Coral, FL	76.3
17. Nassau/Suffolk, NY	76.1
18. Cincinnati, OH	75.7
19. Youngstown/Warren, OH	75.6
20. Harrisburg/Lebanon/ Carlisle, PA	75.5
21. Hartford, CT	75.2
22. Dayton/Springfield, OH	75.0
23. W. Palm Beach/Boca Raton/ Delray, FL	74.5
24. Benton Harbor, MI	**74.4**
25. Indianapolis, IN	74.2
25. Bridgeport/Milford, CT	74.2

Source: U.S. Bureau of the Census, Residential Segregation Detailed Tables, Table 3a (Washington: U.S. Bureau of the Census, 1994). Available: http://www.census.gov/hhes/www/housing/resseg [30 November 1998]. The Census calculated the figures for 316 metropolitan areas.

Three of the ten most racially segregated metropolitan areas in the United States are in Michigan: Detroit, Saginaw/Bay City/Midland, and Flint. Only the Gary/Hammond, Indiana area is more racially segregated than metropolitan Detroit. Two other Michigan urban areas rank in the nation's top twenty-five most segregated metropolitan areas--Muskegon and Benton Harbor. Two other areas, not in the top twenty-five -- Grand Rapids (with an index of dissimilarity of 72.3) and Jackson (69.9)--have rates of black/white segregation higher than the mean index of black/white dissimilarity for metropolitan areas in the United States as a whole. Michigan's four metropolitan areas with moderate

rates of segregation, Ann Arbor (49.5), Battle Creek (62.9), Kalamazoo (53.1), and Lansing/East Lansing (56.8), follow national trends. Three are home to major universities, and all have small black populations. Altogether, only 7.6 percent of all Michigan blacks live in these four areas.[15]

Metropolitan Detroit, home to about half of all Michigan residents, offers a particularly stark example of the persistence of black-white segregation. In the metropolitan Detroit area, the pattern of black-white segregation has fluctuated only slightly since 1940 (Table 5). In fact, rates of residential segregation in Detroit were higher in 1990 than they were in 1960, despite the liberalization of attitudes toward race and the passage of the Civil Rights Act of 1964 and the Fair Housing Act of 1968. In the 1980s, black-white segregation rates grew more pronounced in metropolitan Detroit, at a time when the degree of racial segregation fell slightly in many other major metropolitan areas in the nation.[16]

Table 5: Black/White Segregation in Detroit, 1940-1990

1940	89.9
1950	88.8
1960	84.5
1970	88.4
1980	86.7
1990	87.6

Sources: Annemette Sorensen, Karl E. Taeuber, and Leslie J. Hollingsworth, Jr., "Indices of Racial Residential Segregation for 109 Cities in the United States, 1940 to 1970," Sociological Focus 8 (1975), pp. 128-130; Douglas S. Massey and Nancy A. Denton, American Apartheid: Segregation and the Making of the Underclass (Cambridge: Harvard University Press, 1993), p. 222. The 1940-1970 figures are for the city; the 1980-1990 figures are for the Standard Metropolitan Statistical Area.

Hispanics experience a relatively high degree of segregation from whites, though not nearly as severe as that of blacks. Table 6 lists the twenty-five metropolitan areas with the highest rates of Hispanic/white segregation nationwide. Several patterns emerge from these data. Cities in the northeast and midwest experience the highest rates of Hispanic/white segregation. It is likely that in these metropolitan areas, the black-white color line influences Hispanic/white segregation patterns, for most northeastern cities have sizeable Hispanic populations of Afro-Caribbean origin, such as Dominicans and Puerto Ricans. Hispanics of African descent experience rates of racial segregation comparable to that of non-Hispanic blacks. Urban areas with large numbers of Hispanics (such as Chicago, New York, and Los Angeles) also tend to experience higher degrees of segregation than places with relatively few Hispanics, just as urban areas with large numbers of blacks tend to experience higher degrees of segregation than places with relatively few blacks.[17]

Table 6: The Most Segregated Metropolitan Areas in the United States, Hispanic/White

Metropolitan Area	Index of Dissimilarity
1. Lawrence/Haverhill, MA	75.2
2. Hartford, CT	71.1
3. Reading, PA	69.9
4. Springfield, MA	68.9
5. Bridgeport, CT	68.1
6. Newark, NJ	66.7
7. New York, NY	65.8
8. Lancaster, PA	64.9
9. Providence, RI	64.4
10. Chicago, IL	63.2
11. Philadelphia, PA	62.6
12. Waterbury, CT	61.6
12. Worcester, MA	61.6
14. Los Angeles, CA	61.1
15. Lorain-Elmira, OH	59.8
16. Bergen-Passaic, NJ	58.5
17. Allentown-Bethlehem, PA	58.2
18. Lowell, MA	57.9
18. Pawtucket, RI	57.9
20. Buffalo, NY	57.6
21. New Haven, CT	57.0
22. Salinas, CA	56.9
23. Tyler, TX	56.5
24. Milwaukee, WI	56.4
25. Boston, MA	56.0

Source: U.S. Bureau of the Census, 1990, Residential Segregation Detailed Tables, Table 4(a). (Washington: U.S. Bureau of the Census, 1994). Available: http://www.census.gov/hhes/www/housing/resseg [30 November 1998]. The Census bureau calculated the figures for 316 metropolitan areas.

Michigan's Hispanic population is very small. Hence the degree of Hispanic/white in Michigan is significantly lower than that of blacks (Table 7). In addition, Michigan has few Hispanics of African descent, who tend to experience high rates of segregation. In only three Michigan metropolitan areas, Saginaw/Bay City/Midland, Grand Rapids, and Lansing/East Lansing, is the Hispanic population over three percent. It is in those areas, and Detroit, where the degree of Hispanic segregation is the highest.

Table 7: Hispanic Percentage of Population and Hispanic/White Segregation, Michigan Metropolitan Areas, 1990

Metropolitan Area	Percent of Population	Index of Dissimilarity
Ann Arbor	2.0	26.1
Battle Creek	1.9	28.5
Benton Harbor	1.7	34.8
Detroit	1.9	39.7
Flint	2.1	31.4
Grand Rapids	3.3	46.8
Jackson	1.5	29.7
Kalamazoo	1.8	30.7
Lansing/East Lansing	3.9	38.3
Muskegon	2.3	30.1
Saginaw/Bay City/Midland	4.4	45.7

Source: U.S. Bureau of the Census, Residential Segregation Detailed Tables, Table 4(a). (Washington: U.S. Bureau of the Census, 1994). Available: http://www.census.gov/hhes/www/housing/resseg [30 November 1998].

Origins of Residential Segregation and Racial Isolation

Beginning with the New Deal, federal housing policy translated private discrimination into public policy, and officially ratified the discriminatory practices of developers and banks. Federal officials used an elaborate system of neighborhood classification, developed by the Home Owners Loan Corporation in the 1930s, to determine the eligibility of an area for home loans and mortgage guarantees. Predominantly minority or mixed-race neighborhoods seldom received federal mortgage and loan guarantees. The extent to which developers, seeking federal mortgage guarantees, would go to ensure the racial homogeneity of a neighborhood was vividly demonstrated in the early 1940s, when a developer of a subdivision for whites in northwest Detroit secured government-backed loans on the condition that a condition that a wall be constructed to separate the two neighborhoods. The developer built a six-foot high, foot thick wall which extended nearly one-half mile, and was successful in obtaining government-backed financing.[18]

In the wake of Shelley v. Kraemer, the FHA excised references to the racial character of neighborhoods from its underwriting manual, but its actuarial standards continued to prevent the financing of older, rundown homes and forbade the introduction of "incompatible" groups into a neighborhood. Realtors likewise adhered to a code of ethics that forbade the sale of a home in a homogeneously white neighborhood to a non-white. The lack of equal access to the mortgage market thus prevented most Detroit blacks from purchasing homes eligible for Federal Housing Administration (FHA) and Veterans Administration (VA) loans. The only black developments to receive federally backed loans and mortgages until the late 1960s were a few segregated communities newly constructed on open land near predominantly black neighborhoods, and the occasional infill home, constructed on vacant land in an already black neighborhood. Although federal laws since the 1960s have forbidden discrimination in mortgages

and insurance, recent studies indicate that minorities still do not have equal access to home financing.

Not only did federal policies encourage racial separation in housing, but so too did organized resistance on the part of whites. In Detroit, more than 200 homeowners' associations existed in the mid-twentieth century, most of them created to resist black movement. Often white homeowners used violent means to prevent black movement into their neighborhoods. In northeast Detroit, in 1942, whites attacked black families moving into the Sojourner Truth Housing project.[19] Between the mid-1940s and mid-1960s, blacks who were among the first to move into formerly all-white neighborhoods were targeted in more than two hundred violent incidents and protests, including stone throwing, vandalism, arson, and physical attacks. In the 1960s and afterward, similar incidents sometimes accompanied black movement into Detroit suburbs. Whites, acting from a potent combination of fear and racism, made it clear to blacks that challenges to the color line would exact a high price. Recent studies show that many blacks are still reluctant to move into predominantly white communities because of their memories and fears of white opposition to their presence. Even if they do not expect violence, they still expect hostility.[20]

As Detroit's white population suburbanized, opposition to racial diversity extended to suburban communities. In Dearborn, a middle-class suburb that was home to Ford's international headquarters, city officials collaborated with real estate firms to preserve the racial homogeneity of their community. In the 1940s, Dearborn's mayor promised that Dearborn would remain an all-white community. To that end, throughout the 1940s, 1950s, and 1960s, Dearborn officials vigorously fought against mixed-income housing in their city on the grounds that it would become a "dumping ground" for blacks and other minorities. Despite the fact that Dearborn and Detroit are contiguous, today the Detroit side of the border is almost entirely African American, while the Dearborn side has hardly any blacks.[21] Other suburban communities resisted black movement and policies to diversify the local housing market. On the borders of Detroit are many communities, among them Warren, Redford, Hazel Park, and Harper Woods, which have remained almost completely white despite their proximity to minority-dominated city neighborhoods and their affordable housing stock.[22] Other suburbs devised elaborate techniques to keep minorities and other "undesirable" groups out. In the Grosse Pointes through 1960, realtors favored home buyers of northwestern European descent. Blacks, Asians and Latinos were excluded altogether, and Poles, Southern Europeans, Jews, and other "swarthy" groups needed to meet stringent qualifications if they were to be allowed to purchase a home in the exclusive suburban community. Although the Grosse Pointes are now home to some Jews, Italians, Poles, and other groups of European descent, they remain bastions of whiteness today.[23] As a consequence of the exclusion of blacks from many suburban areas, the Detroit metropolitan area is divided by many invisible lines of race, including long stretches of Eight Mile Road on Detroit's north and Mack Avenue on the east, to offer two examples.

Residential Segregation: The Last Thirty Years

The 1968 federal Fair Housing Act forbade discrimination against minorities by real estate brokers, property owners, and landlords. But real estate agents developed more furtive tactics to preserve the racial homogeneity of neighborhoods. The most significant was "steering," that is the practice of directing white home buyers to all-white communities and black home buyers to predominantly black or racially transitional neighborhoods. Real estate brokers catered to what they believed were the prejudices of their white customers.[24] A 1979 study of real estate practices in metropolitan Detroit revealed the prevalence of